IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 26535 of 2007(H)

OS.731/1998 of MUNSIFF COURT, KARUNAGAPPALLY

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PETITIONER:

DR.ARAVINDAN,S/O. JANARDHANAN PILLAI,
ARAVIND HOSPITAL, THATTASSERI,CHAVARA FROM
PARAMESWARA VILASAM,BUNGALOW,NEERAVIL CHERI,
THRIKKADAVOOR VILLAGE, KOLLAM.

BY ADV. SRI.C.RAJENDRAN
SRI.R.PARAMESWARAN NAIR

RESPONDENTS:

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1. NARAYANA PILLAI RAMAKRISHNA NAIR,
SREENILAYATHU, CHANDROTHIL ROAD,EDAPPALLY,
PADIVATTOM,KOCHI FROM LEKSHMI BHAVANAM,
MEKKADU MURI, PANMANA VILLAGE.(DIED)

2. RAJAMMA PILLAI,
W/O.RAMAKRISHNAN NAIR,SREENILAYATHU,
CHANDROTHIL ROAD,EDAPPALLY,PADIVATTOM,KOCHI.

3. SHALINI NAIR,
D/O.RAMAKRISHNAN NAIR,SREENILAYATHU,
CHANDROTHIL ROAD,EDAPPALLY,PADIVATTOM,KOCHI.

4. SUNIL KUMAR,S/O..RAMAKRISHNAN NAIR,
SREENILAYATHU,
CHANDROTHIL ROAD,EDAPPALLY,PADIVATTOM,KOCHI.

5. SUJITH KUMAR,S/O..RAMAKRISHNAN NAIR,
SREENILAYATHU,
CHANDROTHIL ROAD,EDAPPALLY,PADIVATTOM,KOCHI.

6. PARUKUTTY,
KOVILAKATHU VEEDU,KULANGARABHAGAM MURI,
CHAVARA VILLAGE.

7. VISHALAM,

KOVILAKATHU VEEDU,KULANGARABHAGAM MURI,
CHAVARA VILLAGE.

8. SOMASEKHARAN PILLAI, CHAKODIYIL
CHERUSSERIBHAGOM MURI, CHAVARA VILLAGE.

9. ABDUL MAJEED, KALEELIL KIZHAKKATHIL,
VADUTHALA MURI, PANMANA VILLAGE.

10. BALAKRISHNA PILLAI, MULLASSERIL,
THARAYIL CHERUSSERIBHAGOM MURI, CHAVARA VILLAGE.

11. GOPINATHAN PILLAI,PUTHEN VEEDU,
KULANGARABHAGOM MURI,CHAVARA VILLAGE.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.26535 OF 2007

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Dated this the 10th day of September 2007

JUDGMENT

This writ petition is filed to set aside the order passed by the Munsiff's Court, Karunagappally in I.A.No.982 of 2007 in O.S.No.731 of 1998. The petition is one for deputing a Commissioner to note down the particulars mentioned in the petition. The matter came up before this court on an earlier occasion. A reading of the petition would reveal that the case of the plaintiff is to the effect that he has got 4 items of property under a document of the year 1960 of which he has sold 41 cents to 3rd persons from whom a portion of which is purchased by defendants. According to the plaintiff the balance will come to 20 cents and excess lands 410 sq. links. The plaintiff relied upon old survey plan and the defendants relied upon resurvey plan. Which is correct or appropriate are all matters that have to be taken into consideration at the stage of evidence. Therefore in order to have a full picture of the dispute between the parties, the court below shall direct the Commissioner to prepare two plans of the property, one basing on the old survey plan with documents of title relied upon by the parties and

another plan on the basis of new resurvey plan and also basing on documents of title referred to by both the parties. The correctness or otherwise are all matters the court can consider and decide only after evidence let in by the parties.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-